

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Amy Palmer	Team: Team # 1	CCRB Case #: 200106902	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Wednesday, 09/26/2001 10:56 PM	Location of Incident: § 87(2)(b)	Precinct: 123	18 Mo. SOL 3/26/2003	EO SOL 3/26/2003	
Date/Time CV Reported Fri, 10/12/2001 12:38 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 10/12/2001 12:38 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Bernard Novins	24077	900539	123 PCT
2. LT Michael Kemper	00000	899418	123 PCT
3. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Sharon Fanelli	12542	925256	123 PCT
2. LT Christophe Lopresti	02508	902843	034 PCT
3. SGT Frank Kelly	04285	895603	123 PCT
4. POM Richard Fitzer	07570	896372	INT EPU

Officer(s)	Allegation	Investigator Recommendation
A.POM Bernard Novins	Force: PO Bernard Novins used physical force against § 87(2)(b)	§ 87(2)(b)
B.LT Michael Kemper	Abuse: Lt. Michael Kemper arrested § 87(2)(b)	§ 87(2)(b)
C. An officer	Abuse: An officer strip-searched § 87(2)(b)	§ 87(2)(b)
D. An officer	Abuse: An officer strip-searched § 87(2)(b)	§ 87(2)(b)

Synopsis

This case was referred to the CCRB by Internal Affairs on 10/12/01 and assigned to Inv. Calo. It was assigned to the current investigator in August of 2002 following the departure of Inv. Calo from the CCRB.

§ 87(2)(b) was pushed to the ground by PO Novins (Allegation A) while at the front door of § 87(2)(b), while attempting to inform § 87(2)(b), her friend § 87(2)(b)'s husband, that § 87(2)(b) was being arrested for § 87(2)(b) following a dispute with a neighbor. § 87(2)(b) went back to her house and immediately called 911, alleging that she had been pushed by an officer. This information came over dispatch radio and was heard by officers on the scene. The lieutenant on the scene at § 87(2)(b), Lt. Kemper, went to § 87(2)(b)'s residence, and arrested her § 87(2)(b). While at the 120th precinct, both § 87(2)(b) and § 87(2)(b) were strip searched by an unknown officer (Allegations C and D).

§ 87(2)(b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

§ 87(2)(b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

§ 87(2)(b), § 87(2)(g)

[REDACTED]

[REDACTED]

[REDACTED]

Summary of Complaint

On 9/27/01, at 10:58 PM, § 87(2)(b) called 911 and stated that she had been slammed on the ground by police, injuring her arm and foot (Encl. 30a-d).

§ 87(2)(b) was interviewed in person by Internal Affairs on 9/28/01 (Encl. 10a-e), by CCRB Investigator Calo on 11/5/01 (Encl. 12), and again by the undersigned CCRB investigator on 10/28/02 (Encl. 13a-d), to obtain a verified statement. § 87(2)(g)

§ 87(2)(b)

On 9/26/01, § 87(2)(b) who is friends with § 87(2)(b) went to § 87(2)(b)'s residence at § 87(2)(b) after § 87(2)(b) had a fight with her neighbor and police responded. Inside § 87(2)(b), § 87(2)(b) was upset and § 87(2)(b) was talking with police. Because § 87(2)(b) was having a panic attack and was having problems breathing, an ambulance was called, and officers encouraged § 87(2)(b) to go to the ambulance to be examined. She was accompanied by § 87(2)(b). After § 87(2)(b)'s examination, she and § 87(2)(b) started to walk the short distance from the curb to § 87(2)(b)'s front door. They were approached by Sgt. Lopresti, whom § 87(2)(b) knows from several other incidents over the summer. Sgt. Lopresti asked § 87(2)(b) if she was going to the hospital, and when she said no, he informed her she was under arrest for § 87(2)(b).

There were several other officers present at the time, including a female officer who, at Sgt. Lopresti's direction, handcuffed § 87(2)(b) near the curb, without incident. While § 87(2)(b) was being handcuffed, § 87(2)(b) began walking to the house to tell § 87(2)(b)'s husband that she was under arrest and to retrieve her keys. By the time § 87(2)(b) got to the door, § 87(2)(b) was already inside the police car. There were about seven officers in the area between the door and the street.

§ 87(2)(b) attempted to open the front door, but a dark-haired white male officer extended his arm to prevent her and told her “this isn’t your house, go home.” They argued for a few seconds, but made no physical contact, and § 87(2)(b) did not try to get inside the apartment again. The officer did not tell her to leave again, instead reiterating that she couldn’t enter. § 87(2)(b) began to scream for § 87(2)(b)

She did not see the officer who then came up behind her, though she was later informed by the lieutenant on the scene that it was PO Novins whom she'd had the physical interaction with. PO Novins came up behind her, grabbed her under her arms, lifted her up, and threw her, so that both her feet left the

ground and she landed about five feet from where she started, on her side. § 87(2)(b) sustained scratches to her forearm, and aggravated a pre-existing injury to her ankle. Several months later, her shoulder began hurting.

§ 87(2)(b) got up and walked back to her house. No officer said anything to her or told her to remain on the scene. § 87(2)(b) immediately called 911 and stated that an officer threw her to the ground. Lt. Kemper, who had been on the scene, then responded to § 87(2)(b)'s residence. Initially § 87(2)(b) stated that this was half an hour later, but later clarified that it was within a few minutes.

Lt. Kemper asked why she hadn't spoken to him instead of calling 911. § 87(2)(b) stated that because he had been on the scene, he wouldn't be impartial, and stated she wanted to make a complaint. Lt. Kemper told her that she could make a complaint if she wanted, but he was going to go talk to "Bernie Novins" first, because he could now put criminal charges on her for OGA. The lieutenant told her that PO Novins pushed her. § 87(2)(b) feels that her arrest was in retaliation for stating she wanted to make a complaint.

§ 87(2)(b) was placed under arrest and transported to the precinct. While being brought to Brooklyn to be fingerprinted, she, § 87(2)(b) and PO Fanelli were in the backseat while PO Novins was in the front passenger seat. § 87(2)(b)

§ 87(2)(b) did not recognize or state that she recognized PO Novins.

Though not mentioned until her final interview, where she was specifically questioned about it following a statement made by § 87(2)(b), § 87(2)(b) stated that while in the 120 pct. she was strip-searched in a bathroom by a white female officer with blonde hair, with a heavier black female officer observing. § 87(2)(b) could not recall any further description of these officers.

Results of Investigation

§ 87(2)(b)

§ 87(2)(b) was interviewed in person by Internal Affairs on 9/29/01 (Encl. 10), by Inv. Calo of the CCRB on 11/05/01 (Encl. 14), and again in person by the undersigned investigator on 10/28/02 (Encl. 15a-c) to obtain a verified statement. In her statement to Internal Affairs, she stated she witnessed PO Novins push § 87(2)(b) twice. In her CCRB telephone interview on 11/5/01, she stated that she observed PO Novins grab § 87(2)(b)'s arms and push her from behind. In her second CCRB interview, almost a year later, she stated that she did not observe the actual push to § 87(2)(b) but saw her fly forward. § 87(2)(g)

In her interview on 10/28/02, § 87(2)(b) stated that on the date of the incident, officers responded to her house after an incident between her and her neighbor, where her neighbor called Child Welfare on § 87(2)(b)'s angry telephone calls were exchanged, and § 87(2)(b) got burned with a cigarette by her neighbor. § 87(2)(b) was having an anxiety attack and thus difficulty breathing, and so took a single Xanax prior to the officers' arrival. When the officers came, they encouraged her to go to the ambulance that had responded because of her initial 911 call. § 87(2)(b) went with her. As they were heading back into the house, Sgt. Lopresti approached, and upon being informed that § 87(2)(b) was not going to the hospital, informed her that she was under arrest.

Sgt. Lopresti told a female officer to handcuff § 87(2)(b) which occurred near the curb. § 87(2)(b) stayed near § 87(2)(b) initially, stating that she didn't believe what was happening. Sgt. Lopresti was still present. While § 87(2)(b) was still being handcuffed, § 87(2)(b) went towards § 87(2)(b)'s house at her request, to tell § 87(2)(b) what was happening.

§ 87(2)(b) saw § 87(2)(b) at her front door, asking to get in. § 87(2)(b) was being put in the car at this point. She looked back to see if § 87(2)(b) was able to speak to her husband, and saw § 87(2)(b) fly through the air with her feet off the ground. She did not see how § 87(2)(b) was pushed. There was one officer on the steps, with glasses, and PO Novins was slightly to the side, with his body position and his hands in the air indicating that he had just had an interaction with § 87(2)(b). There were a few other officers in § 87(2)(b)'s yard at this point but many were speaking to her neighbor in the yard next door. § 87(2)(b)'s daughter, § 87(2)(b), may also have been present.

§ 87(2)(b) got up and walked towards her house. Sgt. Lopresti at this time was walking next door. § 87(2)(b) did not see § 87(2)(b) again until about half an hour later, when § 87(2)(b) came into the precinct.

Later that night, § 87(2)(b) was in a car with PO Novins and § 87(2)(b) § 87(2)(b), § 87(2)(g) § 87(2)(b) did not recognize PO Novins.

At the 120th precinct, § 87(2)(b) was strip-searched by a white female with brownish hair while a heavier black female looked on. Both officers were in uniform and § 87(2)(b) recalls no further description. § 87(2)(b) made no previous mention of this; she stated at the time of her interview that she thought it was just part of an arrest.

§ 87(2)(b) § 87(2)(b). She also stated that the neighbors are constantly calling the police on her children, and that she knew Sgt. Lopresti from previous incidents.

Other Civilian Witnesses

§ 87(2)(b) was scheduled to be interviewed when the CCRB re-interviewed § 87(2)(b) and § 87(2)(b) on 10/28/02. She did not appear to that interview. Numerous phone calls were made to arrange an interview with her or § 87(2)(b), but there was no response to these calls (Encl. 34).

On 9/28/02, § 87(2)(b) stated to IAB (Encl. 10a-e) that she saw an unidentified officer fling § 87(2)(b) through the air and saw § 87(2)(b) skid on the ground when she landed. § 87(2)(b) also stated to Internal Affairs on this date that he saw § 87(2)(b) flying 3-5 feet through the air (Encl. 10a-e).

Officer Statements

PO Novins

PO Novins' memo book indicates § 87(2)(b)'s arrest at 11:00 PM, and § 87(2)(b)'s arrest at 11:25 (Encl. 17a-e). His memo book states that § 87(2)(b) repeatedly pushed him while affecting § 87(2)(b)'s arrest. It also indicates that he transported both females to the 120th precinct, and to District 34 for fingerprinting. The flyleaf indicates that § 87(2)(b) stated that she had taken two Xanax to calm down.

PO Novins was interviewed by the CCRB on 7/3/02 by Inv. Calo (Encl. 17f-g). He stated that on the date of the incident, he was partnered with Sgt. Kelley and Lt. Kemper, and received a call to § 87(2)(b) regarding a dispute with baseball bats. When PO Novins arrived on the scene, PO Fanelli was effecting the arrest of § 87(2)(b) whom PO Novins knows is always calling the police on her neighbors. PO Novins stood with PO Fanelli as she was arresting § 87(2)(b) who didn't resist.

§ 87(2)(b) had previously been speaking to § 87(2)(b) in the doorway of § 87(2)(b). She approached PO Novins and pushed him with two open hand on his chest, with no effect. PO Novins told her to stay back. § 87(2)(b) pushed him again. This time, PO Novins, who was between her and § 87(2)(b) stumbled backwards. PO Novins pushed § 87(2)(b) back and she fell on the ground. She stood up, stated, "Now you're in trouble," and ran inside her home. A few minutes later, she exited her home again, and was placed under arrest for obstructing governmental administration (by Lt. Kemper).

PO Novins, along with Sgt. Kelley and Lt. Kemper, transported § 87(2)(b) back to the 123rd precinct, where she was placed in a holding cell. He observed no injuries and she mentioned none. In the car, § 87(2)(b) made a statement which PO Novins recorded in his memo book "See how crazy I was before, I took two Xanax, and I'm calm now." § 87(2)(b)

PO Novins later learned that § 87(2)(b) § 87(2)(b)

§ 87(2)(a) 160.50, § 87(2)(b)

PO Fanelli

PO Fanelli, the female officer who arrested § 87(2)(b) was interviewed by Inv. Calo on 7/19/02 (Encl. 18a-b). She stated that on the date of the incident, she responded to a dispute at § 87(2)(b), and Lt. Kemper, with whom she was working, decided to arrest § 87(2)(b). The arrest of § 87(2)(b) took place on her porch, near the front door of § 87(2)(b)'s house, with Lt. Kemper present, and possibly PO Novins.

PO Fanelli observed § 87(2)(b) inside § 87(2)(b)'s house and again at the precinct. She was advised that § 87(2)(b) was brought in for obstructing the arrest of § 87(2)(b). PO Fanelli stated she did not observe this and was not present. PO Fanelli did not see § 87(2)(b) engage in a struggle with PO Novins, and did not observe § 87(2)(b) engage in any illegal activity. She also heard, at the stationhouse, that § 87(2)(b) was trying to "get through...they told her to stop."

PO Fanelli transported § 87(2)(b) to the 123 stationhouse, where the arrest work is done. The prisoners are then processed at the 120, and PO Fanelli was in the car with both § 87(2)(b) and § 87(2)(b) while they were being brought to the 120. PO Novins was also in the car, and never mentioned knowing § 87(2)(b). § 87(2)(b) PO Novins denied this and didn't get into any further conversation about it. PO Fanelli then stated she was not actually sure if PO Novins was present when § 87(2)(b) mentioned knowing PO Novins.

Sgt. Lopresti

Now a lieutenant, Sgt. Lopresti was interviewed on 9/20/02 by the undersigned investigator (Encl. 19a-e). He stated that on the date of the incident, he was the anticrime sergeant supervising PO Fanelli. He responded to § 87(2)(b), an ongoing problem location. Sgt. Lopresti spoke to § 87(2)(b) and her neighbor, and decided to place § 87(2)(b) under arrest. § 87(2)(b) was arrested in front of her house. The sergeant had decided to separate her from her husband for tactical reasons.

Sgt. Lopresti notified PO Fanelli to handcuff § 87(2)(b) and went inside to speak to § 87(2)(b) in order to keep him separated from his wife. Sgt. Lopresti has no recollection of seeing § 87(2)(b) inside or around § 87(2)(b) prior to § 87(2)(b)'s arrest, which he also doesn't recall. He doesn't recall anyone screaming, ringing the doorbell, or trying to get inside § 87(2)(b) while he was inside. He didn't give specific orders that no one was allowed inside the house, but stated that it made sense tactically.

At some point a radio call came over for § 87(2)(b) § 87(2)(b)'s residence), stating that someone had been assaulted by a police officer. When Sgt. Lopresti came out of the house, he was informed that Lt. Kemper was speaking to § 87(2)(b) at § 87(2)(b). Sgt. Lopresti does not recall seeing PO Novins on the scene.

After the lieutenant came out of § 87(2)(b), he informed Sgt. Lopresti that § 87(2)(b) had interfered in the arrest of § 87(2)(b) and had tried to gain access to § 87(2)(b), yelling that the husband be made aware of what was happening. PO Novins had asked her to step back and there was a physical incident of some kind. Lt. Kemper informed him that § 87(2)(b) was probably going to be placed under arrest.

Sgt. Lopresti did not observe any interference by § 87(2)(b) in § 87(2)(b)'s arrest. § 87(2)(b) was being handled primarily by Lt. Kemper.

Lt. Kemper

Lt. Kemper was interviewed by the undersigned investigator on 9/27/02 (Encl. 21a-d). He stated that on the date of the incident he was working with Sgt. Kelley. They responded to a dispute at § 87(2)(b). § 87(2)(b) was hysterical and wheezing. Interviews were conducted with both § 87(2)(b) and her neighbor to determine what had happened. Her children and husband were in the house with § 87(2)(b) and to prevent them from becoming involved, no mention was made of arresting her inside the house. PO Ranno (from Sgt. Lopresti's anti-crime team) was assigned to remain inside the house with § 87(2)(b) reflecting their unusual level of concern about his potential involvement.

§ 87(2)(b) was brought downstairs with Lt. Kemper and EMS stated that she was fine. When § 87(2)(b) told EMS that she did not want to go to the hospital, Lt. Kemper authorized her arrest § 87(2)(b). Lt. Kemper did not know or see who handcuffed her, but as soon as officers began to arrest § 87(2)(b), § 87(2)(b) appeared from out of nowhere, screaming and yelling things like "They're fucking arresting her, I'm getting her husband." She was yelling for § 87(2)(b) to come down.

§ 87(2)(b) was being arrested somewhere near the sidewalk, which is about 15 feet from the house. Several officers were in a large group in a 10-foot area, including PO Novins, who was closer to the door. There was nobody between PO Novins and the door.

§ 87(2)(b) continued screaming and ran towards the door. She pushed PO Novins and struggled to get past him into the apartment. She disregarded numerous commands not to enter the § 87(2)(b) residence. PO Novins was blocking her and pulling her away from the door. PO Novins may have pushed § 87(2)(b) but Lt. Kemper is not sure and recalls no other force used by PO Novins. At some point, § 87(2)(b) fell to the ground. Lt. Kemper thought she tripped. The entire physical struggle lasted more than five seconds and less than a few minutes. Lt. Kemper believes that PO Novins, Sgt. Lopresti, and Sgt. Kelley were all present. § 87(2)(b) got up and ran back to her house.

Lt. Kemper had probable cause to arrest § 87(2)(b) for OGA as soon as she physically struggled with PO Novins, and made the decision to arrest her as soon as she did so. The lieutenant stated that although one person takes the arrest, all the officers there, including PO Novins, are there to ensure that it goes smoothly. § 87(2)(b) physical interference constituted OGA because they distracted officers from the arrest of § 87(2)(b) necessitating their attention. Her attempts to attract § 87(2)(b)'s attention made the situation potentially more dangerous, since Lt. Kemper did not want § 87(2)(b) to become involved in the arrest, though he could not recall exactly what factors made him fear this. § 87(2)(b)'s actions could also have constituted harassment or disorderly conduct.

§ 87(2)(b) was not immediately arrested because the lieutenant was finishing up with § 87(2)(b)'s arrest and ensuring that everything was done right, and that everyone was fine. He did not recall if the arrest of § 87(2)(b) was over at the time. A few minutes after § 87(2)(b) went back to her residence, a call for an assault by a police officer came over the radio from § 87(2)(b). Lt. Kemper was aware that the call referred to § 87(2)(b).

Lt. Kemper went to the § 87(2)(b) residence, entered alone, and discussed the matter. § 87(2)(b) stated that she had taken her medicine (Lt. Kemper did not recall what) and was beginning to calm down. He radioed to dispatch that he was present and was told that IAB would be coming. He exited the house with § 87(2)(b) and placed her under arrest. § 87(2)(b) did not mention filing a complaint.

Lt. Kemper had never met § 87(2)(b) or § 87(2)(b) before but knew of the location as one where disputes are common. Lt. Kemper did not observe any injuries to § 87(2)(b) nor did she request medical attention to his knowledge. § 87(2)(b)

Sgt. Kelley

Sgt. Kelley was interviewed on 9/24/02 by the undersigned investigator (Encl. 20a-b). He stated on the date of the incident, he was working with Lt. Kemper, supervising PO Novins. After they responded to § 87(2)(b), § 87(2)(b) was brought to an ambulance. Sgt. Kelley did not observe the arrest of § 87(2)(b) which occurred near the ambulance and was authorized by Lt. Kemper. Sgt. Kelley was at the front door of the § 87(2)(b) residence with PO Novins, to ensure that § 87(2)(b) did not re-enter the apartment, and to make sure that § 87(2)(b) did not exit the apartment and cause problems. § 87(2)(b) was screaming by the ambulance. Sgt. Kelley had seen her inside the apartment previously, antagonizing the situation by using profanity towards § 87(2)(b)'s neighbor.

Sgt. Kelley heard handcuffs being taken out to arrest § 87(2)(b). At this point, § 87(2)(b) ran straight for the front door, screaming "Let me in the fucking house," and screaming for § 87(2)(b)'s husband. There were several officers between the front door and the ambulance, where the sergeant believes that Lt. Kemper was. As § 87(2)(b) was running towards them, Sgt. Kelley and PO Novins told her several times that she could not go in the house. They were attempting to avoid a confrontation with § 87(2)(b)'s husband, who is a large man, and who was inside with PO Ranno. They believed they would have more control over the situation with him not present. PO Novins put his arm up when he saw § 87(2)(b) running at him in an aggressive manner. Sgt. Kelley believed that § 87(2)(b) was going to use force to get by PO Novins.

§ 87(2)(b)'s arm and chest "bounced" off of PO Novins' body and arm, and she fell down into a sitting position. Sgt. Kelley did not see PO Novins push § 87(2)(b). § 87(2)(b) got up and ran into her house across the street. They did not immediately pursue her because they knew where she was

and she was not a threat. Sgt. Kelley felt that if they had run after her at that point, she simply would have closed the door on them, and everything would have turned into a big deal.

§ 87(2)(b) was placed under arrest and into a police car, and then officers discussed what to do about § 87(2)(b). During that time a radio run came over the radio stating that § 87(2)(b) had been assaulted by officers. Sgt. Kelley did not hear the radio run, and explained his knowledge of it by stating that before they go down to CCRB they talk about the incident. However, he stated that the decision to arrest § 87(2)(b) was made before the radio run came over, and volunteered that it played no part in the decision to arrest § 87(2)(b). Lt. Kemper authorized § 87(2)(b)'s arrest.

He, the lieutenant, and Sgt. Lopresti went to § 87(2)(b)'s house a few minutes after § 87(2)(b) fled across the street. Lt. Kemper spoke to § 87(2)(b) alone while they spoke to § 87(2)(b) outside.

Sgt. Kelley did not see § 87(2)(b) at the stationhouse. He never observed any scratches on § 87(2)(b)'s arm.

PO Fitzer

PO Fitzer was interviewed by the undersigned investigator on 10/10/02 (Encl. 22a-d). He stated that on the date of the incident, he was in the anticrime auto with Sgt. Lopresti, PO Fanelli, and PO Ranno. § 87(2)(g) He stated that § 87(2)(b) was placed under arrest inside her house, and once officers exited her house with her in custody, he observed § 87(2)(b) already in the backseat of a patrol car. He recalls nothing useful about this incident, including any types of force used towards § 87(2)(b) or any interference she caused.

Documents

The tape of the radio run was no longer available at the time it was requested but the Sprint report (Encl. 30a-d) indicates that the initial call regarding the dispute between § 87(2)(b) and her neighbor occurred at 10:21 PM. § 87(2)(b) requested EMS because she couldn't breathe at 10:27 PM. § 87(2)(b)'s arrest was confirmed at 11:00 PM. At 10:56, a call for an injured female at § 87(2)(b) § 87(2)(b)'s residence) came over the radio, and according to the radio run, § 87(2)(b) called again at 10:57 stating she wanted to cancel that call, she just wanted the police. At 10:58 she stated that she was just slammed on the ground by an officer, injuring her arm and foot. At 11:03, the anti-crime supervisor (which could be either Sgt. Kelly or Sgt. Lopresti) responded to that job, and at 11:29, § 87(2)(b) was under arrest, authorized by Lt. Kemper. Her BADS and OLBS information (Encls. 25-26) state 11:25 as her official time of arrest. IAB was notified at 11:43.

IAB photographs taken on 9/28/01 (Encl. 31a-b) show a series of long, linear red scratches on § 87(2)(b)'s forearm and a cigarette burn on § 87(2)(b)'s arm.

§ 87(2)(b), § 87(2)(a) 160.50

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civil Case

The notice of claim (Encl. 33a-d) was jointly filed by § 87(2)(b) and § 87(2)(b) in federal court against PO Novins and five unknown police officers. It was filed in US Eastern District Court on § 87(2)(b) regarding, most notably, claims of false arrest, excessive force, unlawful strip search, and assault and battery. There is no amount specified in the notice of claim, which instead requests damages in an amount to be determined by a jury.

§ 87(2)(b) stated in an unrecorded telephone conversation on 11/15/02 that she is scheduled to give a deposition the week of § 87(2)(b).

Prior Bad Acts

This is § 87(2)(b)'s only CCRB complaint (Encl. 7). § 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

PO Novins has six prior cases with 13 total allegations in his 10 year tenure (Encl. 9), including a substantiated discourtesy allegation and a substantiated force allegation (beat) in 1996. The panel recommended charges but PO Novins received command discipline. He also has two other unsubstantiated force allegations.

Lt. Kemper has three total cases and four total charges in his eleven year tenure, with no substantiations or unsubstantiations (Encl. 8).

Conclusions and Recommendations

§ 87(2)(g)

PO Novins stated that immediately prior to his interaction with § 87(2)(b) she had been speaking to § 87(2)(b) at the door of § 87(2)(b), at which point she then approached PO Novins, who was standing with PO Fanelli as she was handcuffing § 87(2)(b). PO Novins stated he was pushed by § 87(2)(b) as he was standing between her and § 87(2)(b). § 87(2)(b), § 87(2)(g)

§ 87(2)(g) According to every other officer, the interaction between § 87(2)(b) and PO Novins occurred at the door of § 87(2)(b), as she was trying to get in. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Penal Law 35.30 (Encl. 2a-b) and Patrol Guide Procedure 203-11(Encl. 4) state that force may be used to effect an arrest or prevent escape, § 87(2)(g)

PD v. Duane (OATH Index 01/125; Encl. 5) and PD v. Medina (OATH Index 2283/00; Encl. 6) all reinforce that even in cases where no arrest is being made, *diminimus* physical contact with a civilian is not sanctionable. § 87(2)(g). In one case, an officer pulled a civilian off of a radiator, so that he slid and landed standing on his feet, and in another, the civilian was pushed/pulled/guided inside an office, without causing the civilian to stumble or fall. Both judges were careful to state that no injuries or falling occurred. § 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

PL 195.05 (Encl. 3) states that a charge of OGA is merited when a person “intentionally obstructs, impairs, or perverts the administration of law or other governmental function, or prevents or attempts to prevent a public servant from performing an official function, by means of intimidation, physical force, or interference...”

§ 87(2)(b), § 87(2)(g)

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§ 87(2)(b), § 87(2)(g)

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Finally, § 87(2)(b) and § 87(2)(b) both allege that strip searches were conducted at the 120th precinct. § 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: